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FILED

Date 2/4/14 By 

9 **BEFORE THE**
10 **STRUCTURAL PEST CONTROL BOARD**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2014-38

13 **KELLY S. HALL**
605 Benicia Drive
14 Santa Rosa, California 95409

ACCUSATION

15 **Applicator License No. RA 53599**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Susan Saylor (Complainant) brings this Accusation solely in her official capacity as
21 the Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer
22 Affairs.

23 **Current License**

24 2. On or about September 7, 2012, the Structural Pest Control Board (Board) issued
25 Applicator License No. RA 53599 in Branch 2 and 3 to Kelly Scott Hall (Respondent) as an
26 employee of Northwest Termite Control, Inc., with a business address in Santa Rosa. The
27 Applicator License was in full force and effect at all times relevant to the charges brought in this
28 Accusation and will expire on September 7, 2015, unless renewed.

1 **Prior Licenses**

2 3. On or about August 26, 2008, the Board issued Applicator License No. RA 49188 in
3 Branch 2 and 3 to Respondent as an employee of Crown and Shield Exterminators, Inc., with a
4 business address in Petaluma. The Applicator License was cancelled on or about August 26,
5 2011.

6 4. On or about March 9, 2001, the Board issued Applicator License No. RA 17237 in
7 Branch 2 and 3 to Respondent as an employee of Aarons Army Pest Patrol, with a business
8 address in Rohnert Park. The Applicator License was cancelled on or about March 9, 2004.

9 **JURISDICTION**

10 5. This Accusation is brought before the Board under the authority of the following
11 laws. All section references are to the Business and Professions Code unless otherwise indicated.

12 6. Section 8620 provides that the Board may suspend or revoke a license when it finds
13 that the holder, while a licensee or applicant, has committed any acts or omissions constituting
14 cause for disciplinary action. In addition, the Board may assess a civil penalty in lieu of a
15 suspension.

16 7. Section 8625 states:

17 "The lapsing or suspension of a license or company registration by operation of law or by
18 order or decision of the board or a court of law, or the voluntary surrender of a license or
19 company registration shall not deprive the board of jurisdiction to proceed with any investigation
20 of or action or disciplinary proceeding against such licensee or company, or to render a decision
21 suspending or revoking such license or registration."

22 8.. Section 8654 states:

23 "Any individual who has been denied a license for any of the reasons specified in Section
24 8568, or who has had his or her license revoked, or whose license is under suspension, or who has
25 failed to renew his or her license while it was under suspension, or who has been a member,
26 officer, director, associate, qualifying manager, or responsible managing employee of any
27 partnership, corporation, firm, or association whose application for a company registration has
28 been denied for any of the reasons specified in Section 8568, or whose company registration has

1 been revoked as a result of disciplinary action, or whose company registration is under
2 suspension, and while acting as such member, officer, director, associate, qualifying manager, or
3 responsible managing employee had knowledge of or participated in any of the prohibited acts for
4 which the license or registration was denied, suspended or revoked, shall be prohibited from
5 serving as an officer, director, associate, partner, qualifying manager, or responsible managing
6 employee of a registered company, and the employment, election or association of such person by
7 a registered company is a ground for disciplinary action."

8 **STATUTORY PROVISIONS**

9 9. Section 8649 states:

10 "Conviction of a crime substantially related to the qualifications, functions, and duties of a
11 structural pest control operator, field representative, applicator, or registered company is a ground
12 for disciplinary action. The certified record of conviction shall be conclusive evidence thereof."

13 10. Section 8655 states:

14 "A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a
15 charge substantially related to the qualifications, functions, and duties of a structural pest control
16 operator, field representative, applicator, or registered company is deemed to be a conviction
17 within the meaning of this article or Section 8568 of this chapter. The board may order the license
18 or registration suspended or revoked, or may decline to issue a license, when the time for appeal
19 has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting
20 probation is made suspending the imposition of sentence, irrespective of a subsequent order under
21 the provisions of Section 1203.4 of the Penal Code allowing the individual or registered company
22 to withdraw a plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty,
23 or dismissing the accusation, information or indictment."

24 **REGULATORY PROVISION**

25 11. California Code of Regulations, title 16, section 1937.1 states, in pertinent part:

26 "For the purposes of denial, suspension or revocation of a license or company registration
27 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be
28 considered to be substantially related to the qualifications, functions or duties of a licensee or

1 registered company under Chapter 14 of Division 3 of the code if to a substantial degree it
2 evidences present or potential unfitness of such licensee or registered company to perform the
3 functions authorized by the license or company registration in a manner consistent with the public
4 health, safety, or welfare."

5 **COST RECOVERY**

6 12. Section 125.3 states, in pertinent part, that a Board may request the administrative law
7 judge to direct a licensee found to have committed a violation or violations of the licensing act to
8 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

9 **CAUSE FOR DISCIPLINE**

10 **(Conviction of a Substantially Related Crime)**

11 13. Respondent has subjected his Applicator License is to disciplinary action because he
12 was convicted of a crime substantially related to the qualifications, functions or duties of an
13 Applicator. (Bus. & Prof. Code §§ 8649 and 8655; Cal. Code Regs., title 16, § 1937.1.)
14 Respondent was convicted of committing robbery, a felony, in violation of Penal Code section
15 211, in *People v. Kelly Scott Hall*, Sonoma County Superior Court Case No. SCR-634660, the
16 details of which are described below.

17 **Court Proceedings**

18 a. On or about August 8, 2013, Respondent was sentenced to 5 years in state prison for
19 robbery, but execution of sentence was suspended and Respondent was granted formal probation
20 on terms including completing a residential drug rehabilitation program and abstaining from the
21 use of alcohol and controlled substances. The sentence followed Respondent's June 25, 2013, no
22 contest plea to the charge.

23 **Circumstances of Crime**

24 b. On or about May 11, 2013, Respondent robbed a Santa Rosa convenience store. He
25 pushed and punched the store clerk and simulated having a gun by having a hand in his pocket
26 and threatening to shoot the clerk until the clerk was able to open the cash register. Respondent
27 was arrested on or about May 22, 2013, when Sonoma County Sheriff's deputies detained
28 Respondent for attempted burglary of a Santa Rosa residence. During the interview regarding the

1 reported attempted burglary, deputies recognized Respondent from the convenience store
2 surveillance footage, and Respondent confirmed he was the robber in the video. He also told
3 deputies that he had a problem with drug and alcohol abuse.

4 **OTHER MATTERS**

5 **(Derivative Jurisdiction)**

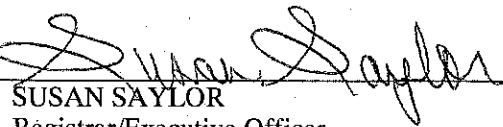
6 14. Under section 8654, if discipline is imposed on Applicator License No. RA 53599
7 issued to Respondent, Respondent shall be prohibited from serving as an officer, director,
8 associate, partner, qualifying manager, or responsible managing employee for any registered
9 company during the time the discipline is imposed, and any registered company which employs,
10 elects, or associates Respondent shall be subject to disciplinary action.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
13 Accusation, and that following the hearing, the Board issue a decision:

- 14 1. Revoking or suspending Applicator License No. RA 53599, issued to Kelly S. Hall;
15 2. Prohibiting Kelly S. Hall from serving as an officer, director, associate, partner,
16 qualifying manager, or responsible managing employee of any registered company during the
17 period that discipline is imposed on Applicator License No. RA 53599, issued to Kelly S. Hall;
18 3. Ordering Kelly S. Hall to pay the Board the reasonable costs of the investigation and
19 enforcement of this case, under Business and Professions Code section 125.3; and
20 4. Taking such other and further action as deemed necessary and proper.

21 DATED: 2/4/14

22 
23 SUSAN SAYLOR
24 Registrar/Executive Officer
25 Structural Pest Control Board
26 Department of Consumer Affairs
27 State of California
28 Complainant